

eral appropriations bill of 1951, Chairman Mike Mansfield, of Montana, stated that the House, not the Committee of the Whole, determines whether the Committee may sit in executive session, and he declined to respond to a parliamentary inquiry regarding that matter on the ground that such an inquiry should be addressed to the Speaker.

MR. [ERRETT P.] SCRIVNER [of Kansas]: Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would submit a parliamentary inquiry as to whether or not an executive session could be held and, if so, what procedure would be necessary to bring that to pass before we are asked to vote upon the \$350,000,000 additional.

THE CHAIRMAN: The Chair will state to the gentleman from Kansas that the Committee of the Whole would have no control over that. That would be a matter for the House itself to decide.

MR. SCRIVNER: I understand that, of course, and raised the question for information of the Members. Since it is a matter for the House to determine, as a further parliamentary inquiry, what would be the method followed to take that action?

THE CHAIRMAN: The Chair will say to the gentleman from Kansas that a parliamentary inquiry of that sort should be addressed to the Speaker rather than the Chairman.

Interpretation of Senate Procedure

§ 7.19 The Chair does not interpret the rules or procedures of the Senate.

On June 6, 1961,⁽¹²⁾ during consideration of H.R. 7444, making appropriations for the Department of Agriculture for fiscal year 1962, the Chairman declined to interpret Senate rules or procedure.

MR. [WILLIAM H.] AVERY [of Kansas]: Mr. Chairman, may I submit another parliamentary inquiry?

THE CHAIRMAN:⁽¹³⁾ The gentleman will state it.

MR. AVERY: Mr. Chairman, the language of the amendment now pending at the desk is the identical language that came into conference from the other body following action of the House, and my amendment in 1959 became incorporated, I believe, in the conference report. Does that in any way change the legislative history of the amendment?

THE CHAIRMAN: The Chair may advise the gentleman that nothing is pending before the Chair, but by way of observation, the language the gentleman speaks of was apparently added by the other body. The present occupant of the Chair would not attempt to state or to interpret the rules or procedure of the other body.

MR. AVERY: I thank the Chairman.

§ 8.—Rulings Relating to Amendments

The Chairman of the Committee of the Whole is guided by the

12. 107 CONG. REC. 9626, 87th Cong. 1st Sess.

13. Paul J. Kilday (Tex.).

precedents in determining whether a bill being considered in the Committee shall be read for amendment by sections or paragraphs. Generally, appropriation bills are read for amendment by paragraph and other bills are read for amendment by section, in the absence of a special rule providing otherwise.⁽¹⁴⁾ Nonetheless, the Chairman's decision on this matter has been overruled on occasion.⁽¹⁵⁾ Although it is ordinarily not in order to return to a section or paragraph that has been passed⁽¹⁶⁾ (the Chairman may direct a return to a section when, by error, no action had been taken on a pending amendment).⁽¹⁷⁾

Application or Effect of Proposed Amendment

§ 8.1 The Chairman does ordinarily not construe the effect of an amendment.

14. Note to Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 8 Cannon's Precedents §§2341–2346.
See Ch. 27, *infra*, for other precedents relating to amendments.
15. Note to Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 8 Cannon's Precedents §2347.
16. Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 4 Hinds' Precedents §§4742, 4743.
17. Rule XXIII clause 5, *House Rules and Manual* §872 (1979); 4 Hinds' Precedents §4750.

On Apr. 26, 1966,⁽¹⁸⁾ during consideration of an amendment to H.R. 14596, making appropriations for the Department of Agriculture for fiscal year 1967, Chairman Eugene J. Keogh, of New York, declined to construe the effect of an amendment except to respond to a point of order alleging that it was legislation on an appropriation bill.

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: On page 35, strike all language on lines 11 and 12, and insert the following:

"No funds appropriated by the Act shall be used to formulate or administer a Federal crop insurance program for the current fiscal year that does not meet its administrative and operating expenses from premium income: *Provided*," . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Illinois on the ground that it is legislation on an appropriation bill.

May I say that the gentleman from Illinois gave the matter away, in my opinion, when he said that the purpose of his amendment was to set premium rates that the Government would charge. I think that shows clearly what is involved. This amendment provides that no funds shall be used to administer this program under certain condi-

18. 112 CONG. REC. 8968, 8969, 89th Cong. 2d Sess.

tions. The program now in existence is based on contracts to which the Government is a party. For us in this bill to try to prohibit the handling of existing contracts on the part of the Government would clearly be legislation. It not only would be legislation but it would interfere with meeting obligations under existing contracts and commitments on the part of the Government.

For that reason, Mr. Chairman, I submit that the point of order should be sustained.

THE CHAIRMAN: Does the gentleman from Illinois desire to be heard on the point of order?

MR. FINDLEY: Yes, Mr. Chairman.

Mr. Chairman, the amendment I have offered is clearly a limitation of funds, requiring that no funds be appropriated for the administration or formulation of programs. Therefore, on the basis of that it seems to me that the amendment is in order.

MR. WHITTEN: Mr. Chairman, if I may make one observation, the amendment has to do with setting premiums and is quite clearly an affirmative action.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Illinois [Mr. Findley] has offered an amendment at page 35, striking out all language on lines 11 and 12 and the amendment would add a new paragraph; to which amendment the gentleman from Mississippi has made a point of order on the ground that it is legislation on an appropriation act. . . .

It might be said that the effect of any proposed amendment is truly not within the competence of the Chair.

But a reading of this language indicates to this occupant of the chair that there is here sought an express limitation on the funds appropriated by the pending bill and the Chair, therefore, overrules the point of order.

§ 8.2 The Chair may construe the purpose of an amendment to determine whether it is a limitation on an appropriation and therefore in order, but may refuse to rule on its application or construction with respect to a provision in the bill.

On May 15, 1957,⁽¹⁹⁾ during consideration of H.R. 7441, making appropriations for the Department of Agriculture, Chairman Paul J. Kilday, of Texas, declined to pass on the construction of a proposed amendment after a point of order was made alleging that it was surplusage and ineffective because of a previously adopted amendment.

The Clerk read as follows:

ACREAGE RESERVE, SOIL BANK

For necessary expenses to carry out an acreage reserve program in accordance with the provisions of subtitles A and C of the Soil Bank Act (7 U.S.C. 1821-1824 and 1802-1814), \$600,000,000: *Provided*, That no part of this appropriation shall be used to formulate and administer an acreage reserve program which

19. 103 CONG. REC. 7023, 7033, 7034, 85th Cong. 1st Sess.

would result in total compensation being paid to producers in excess of \$500,000,000 with respect to the 1958 crops.

MR. [BURR P.] HARRISON of Virginia: I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harrison of Virginia: On page 21, strike out all following the word "program" in line 2 and strike out all of line 3. . . .

So the amendment was agreed to.

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: On page 21, line 4, change the period to a comma and add the following: "or in total compensation being paid to any one producer in excess of \$5,000 with respect to the 1958 crops."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the committee having stricken out or prohibited the use of any money for any 1958 program, now to provide that money shall be limited to \$5,000 per participant where no money can be used for the 1958 program is the question. If it is in order, Mr. Chairman, I should like to renew my point of order that to put a limitation on the amount to be given to a participant, when the committee has just adopted an amendment prohibiting the use of any money, strikes me as being surplusage and subject to a point of order. . . .

THE CHAIRMAN: The Chair is ready to rule on the point of order.

First, the Chair wants to call attention to the fact that the amendment offered by the gentleman from Virginia [Mr. Harrison] did not strike out all of the proviso. It struck out only that portion of the proviso on page 21, line 2, beginning after the word "program" to and including "\$500,000,000" in line 3. So that the proviso now reads:

Provided, That no part of this appropriation shall be used to formulate and administer an acreage reserve program with respect to the 1958 crops.

The amendment offered by the gentleman from Wisconsin [Mr. Reuss] strikes out the period, inserts a comma, and adds the language "or in total compensation being paid to any one producer in excess of \$5,000 with respect to the 1958 crops."

While it may be because of the amendment offered by the gentleman from Virginia having been adopted that the amendment offered by the gentleman from Wisconsin would be ineffective, still the Chair believes, it being a limitation upon the purpose for which the funds are appropriated, that it is in order and that the point of order should be overruled.

MR. WHITTEN: Mr. Chairman, do I understand then that it is the judgment of the Chair that it would not apply back to the \$600 million?

THE CHAIRMAN: The Chair is not going to pass on the construction of the language whether this amendment is adopted or not.

The point of order is overruled.

§ 8.3 The Chairman does not rule on the effect of amendments on other provisions in

a bill, or their consistency with provisions of the bill already passed in the reading for amendment.

On June 28, 1967,⁽¹⁾ during consideration of amendments to H.R. 10340, authorizing appropriations for the National Aeronautics and Space Administration, Chairman John J. Flynt, Jr., of Georgia, on two occasions overruled points of order on the ground that the Chairman does not rule on the consistency of amendments or their effect on other provisions of a bill.

The bill contained an overall appropriation (on page 1, line 5, as mentioned below) which was to be divided among various specified projects, including an amount for sustaining university programs (on page 2, line 22, as mentioned below). The "consistency problem", as raised by Mr. Joseph E. Karth, of Minnesota, was that the total figure for the overall appropriation would not equal the sum of all the appropriations for the various specified projects if an amendment changed only the figure for one of the specified programs. The proceedings were as follows:

MR. [RICHARD L.] ROUDEBUSH [of Indiana]: Mr. Chairman, I offer an amendment.

1. 113 CONG. REC. 17755, 90th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Roudebush: On page 2, line 22, strike the amount "\$30 million" and insert in lieu thereof the amount "\$20 million".

THE CHAIRMAN: The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes in support of his amendment.

MR. KARTH: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. KARTH: Mr. Chairman, now that the amendment is here, I again renew my request for a ruling as to whether or not the amendment that the gentleman proposes to make on page 2 can be legitimately made without changing his figure on page 1. I raise that point of order, Mr. Chairman.

Mr. Chairman, I make the point of order.

THE CHAIRMAN: Does the gentleman make a point of order to the amendment offered by the gentleman from Indiana?

MR. KARTH: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state this point of order.

MR. KARTH: My point of order is, If the gentleman proceeds with his amendment as it has been read by the Clerk, reducing the amount on line 22 by \$10 million and he does not change the total on line 5 of page 1, it seems to me that the amendment is not in proper order.

THE CHAIRMAN: Will the gentleman state his point of order in a form on which the Chair can rule?

MR. KARTH: The point of order I raise, Mr. Chairman, is against the amendment.

THE CHAIRMAN: On what basis?

MR. KARTH: On the basis that it is not a properly drawn amendment, that it does not affect the bill as it otherwise would if it were proper.

THE CHAIRMAN: The Chair overrules the point of order. The Chair does not make rulings on the consistency of language in amendments offered to the bill.

The gentleman from Indiana [Mr. Roudebush] is recognized for 5 minutes.

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman——

THE CHAIRMAN: Does the gentleman from Indiana yield to the gentleman from Texas?

MR. ROUDEBUSH: No, Mr. Chairman. I should like to make my remarks.

MR. ECKHARDT: A point of order, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his point of order.

MR. ECKHARDT: Mr. Chairman, I make the point of order that the amendment offered has the effect of changing the figure on page 1, line 5, by reducing it \$10 million, and, therefore, affects line 5, which has already been amended at a previous time.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The Chair will state, that the point of order made by the gentleman from Texas is substantially the same point of order made by the gentleman from Minnesota. The Chair does not rule on the question of whether an amendment to one point would amend another point in the bill.

The present amendment offered by the gentleman from Indiana relates to line 22 on page 2 and has no effect at this time on line 5, page 1.

The Chair, therefore, overrules the point of order of the gentleman from Texas.

The Chair recognizes the gentleman from Indiana [Mr. Roudebush] in support of his amendment.

Interpretation of Amendment

§ 8.4 The meaning of an amendment that is technically in order is not a matter to be passed on by the Chairman.

On Oct. 12, 1966,⁽²⁾ during consideration of H.R. 51, the Indiana Dunes Lakeshore bill, Chairman John J. McFall, of California, declined to interpret an amendment.

MR. [J. EDWARD] ROUSH [of Indiana]: Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Arizona [Mr. Udall].

The Clerk read as follows:

Amendment to the substitute amendment offered by Mr. Roush: Page 2, line 6, strike out the period at the end of Mr. Udall's amendment and add the following: "excluding therefrom the one mile of lakefront known as Ogden Dunes Beach and adding thereto the area known as the Burns Bog Unit as shown on a map with the same title, dated January 1965 and bearing the number 'NL-ID-7001A' which map is also on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior."

2. 112 CONG. REC. 26205, 89th Cong. 2d Sess.

THE CHAIRMAN: The Chair recognizes the gentleman from Indiana [Mr. Roush].

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, will the gentleman yield for the purpose of propounding a parliamentary inquiry?

MR. ROUSH: I yield to the gentleman from Indiana.

THE CHAIRMAN: The gentleman from Indiana will state the parliamentary inquiry.

MR. HALLECK: Mr. Chairman, in view of the fact that all of the units of this proposed national park are fixed by reference to a map, is it in order to offer language in indefinite terms that would undertake to alter that?

The gentleman from Arizona offered an amendment which referred to another map, which is a matter of record.

I do not know and I do not know whether anybody else knows just what is meant when reference is made to Ogden Dunes or Burns Bog units.

THE CHAIRMAN: The Chair would reply that the Chair is not in a position to construe the amendment. The amendment technically is in order and it is up to the Member offering an amendment to construe the amendment for the benefit of the Members.

Ambiguity of Amendment

§ 8.5 The Chair does not rule on whether an amendment is ambiguous.

On July 5, 1956,⁽³⁾ during consideration of H.R. 7535, author-

3. 102 CONG. REC. 11873, 11875, 84th Cong. 2d Sess.

izing federal assistance to the states and local communities in financing an expanded program of school construction to eliminate a national shortage of classrooms, Chairman Francis E. Walter, of Pennsylvania, stated the practice of the Chair in ruling on the ambiguity of an amendment.

MR. [ADAM C.] POWELL [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Powell: On page 26, after line 12, insert a new title IV:

"That there shall be no Federal funds allotted or transferred to any State which fails to comply with the provisions of the Supreme Court."

After debate, an amendment to the amendment was offered as follows:

Amendment offered by Mr. [James] Roosevelt [of California] to the Powell amendment: Strike the word "provisions" and insert the word "decisions."

MR. [ROSS] BASS of Tennessee: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the amendment is not germane to the bill.

THE CHAIRMAN: It is certainly germane to the amendment offered by the gentleman from New York to substitute the word "decisions" for the word "provisions." The Chair so rules.

MR. BASS of Tennessee: Mr. Chairman, a further point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: I make the point of order that the word "provisions" is ambiguous and has no meaning whatever and would make the amendment not germane.

THE CHAIRMAN: The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

Consistency of Amendments

§ 8.6 The Chairman does not rule on the consistency of amendments.

On Aug. 16, 1961,⁽⁴⁾ the Committee of the Whole by teller vote of 197 ayes, 185 noes, agreed to the following substitute amendment to H.R. 8400, the Mutual Security Act of 1961, authorizing appropriations to the President:

Amendment offered by Mr. [Dalip S.] Saund, of California, as a substitute for the amendment offered by Mr. Morgan, of Pennsylvania: On page 7, strike out line 13 and all that follows down through line 7 on page 9, and insert in lieu thereof the following:

Sec. 202. Capitalization.—(a) There is hereby authorized to be appropriated to the President not to exceed \$1,200,000,000 for use beginning in the fiscal year 1962 to carry out the purposes of this title, which sums shall remain available until expended.

The following day, Aug. 17, 1961,⁽⁵⁾ the Committee again met,

4. 107 CONG. REC. 16060, 16073, 87th Cong. 1st Sess.

5. *Id.* at p. 16188. See 119 CONG. REC. 25828, 93d Cong. 1st Sess., July 25,

with Wilbur D. Mills, of Arkansas, in the Chair, to consider other amendments to the same bill:

THE CHAIRMAN: When the Committee rose on yesterday the Clerk had read through section 202 ending in line 13, page 3 of the bill.

If there are no further amendments to section 202, the Clerk will read.

MR. [LAURENCE] CURTIS of Massachusetts: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Curtis of Massachusetts: In section 202 add a new subsection to be numbered (b), and re-letter the other subsections accordingly, to read as follows:

"(b) There is hereby authorized to be appropriated to the President without fiscal year limitation to carry out the purposes of this title not to exceed \$1,000,000,000 for the fiscal year 1963, and not to exceed \$1,000,000,000 for the fiscal year 1964."

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

MR. SMITH of Virginia: Mr. Chairman, in order to see if we can find out where we are at, I would like to know first what becomes of the amendment that was adopted on yesterday. It is in the bill. There is no provision in this amendment which strikes it out. Does

1973; 103 CONG. REC. 13501, 85th Cong. 1st Sess., Aug. 2, 1957; and 95 CONG. REC. 11994, 81st Cong. 1st Sess., Aug. 22, 1949, for other rulings that the Chairman does not rule on the consistency of amendments.

it remain in the bill; and if it does not remain in the bill, how does it get out?

THE CHAIRMAN: That provision adopted yesterday remains in the bill; and, as the Chair understands the situation, it would not be affected by this amendment. This amendment would be in addition to that which was acted on yesterday.

MR. SMITH of Virginia: Mr. Chairman, the two amendments are in direct conflict. We have adopted one amendment which says that this shall be for 1 year by direct appropriation, then we adopt another amendment, both of which the Chairman informs us will be in the bill. In the other amendment we made it a 3- or 4-year proposition and cut the appropriation. . . .

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I should like to urge a further point of order against the proposed amendment, first, on the basis that the subject matter of that amendment was acted upon yesterday and therefore it is not appropriate to reopen the matter at this time. Second, if I understood the place in the bill to which it is offered, since we already have a section (b) in there, it would be section (c), and I urge the Chair that it is not germane at that point. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Massachusetts [Mr. Curtis] offers an amendment to section 202 of the bill to which the gentleman from Virginia makes a point of order.

Permit the Chair to say that it is not the province of the Chair to rule on whether matters are consistent or not. That is within the judgment of the committee. The amendment adopted

yesterday included the deletion of paragraph (b) of section 202 as a part of the amendment. So, the Chair will say that there is at the moment no paragraph (b) in the bill. This is new material. It is germane to the subject of section 202, and the Chair overrules the point of order.

§ 8.7 The Chairman does not rule on the consistency of a proposed amendment with another amendment already adopted.

On July 25, 1973,⁽⁶⁾ during consideration of H. R. 8480, the Impoundment Control Act, Chairman Dante B. Fascell, of Florida, declined to rule that a proposed amendment was inconsistent with an amendment which had already been adopted.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 11, after line 10, add the following new section:

"Sec. 109. The foregoing provisions of this title shall take effect on January 1, 1974."

MR. [RICHARD] BOLLING [of Missouri]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN: The gentleman will state his point of order.

6. 119 CONG. REC. 25828, 93d Cong. 1st Sess. See 119 CONG. REC. 41306, 41308, 41688, 41689, 93d Cong. 1st Sess., Dec. 13, and 14, 1973, respectively, for a similar ruling.

Mr. BOLLING: The point of order is that the amendment is not germane.

Mr. ANDERSON of Illinois: Mr. Chairman, if I may be heard on the point of order, I think perhaps the distinguished gentleman from Missouri and my colleague on the Committee on Rules has not correctly understood the amendment, because it is not the amendment that says that the foregoing provisions of this title; namely, title I, shall take effect on the effective date of this legislation which improves congressional control over budgetary outlay and the receipt totals in a comprehensive manner but merely fixes a date and says that the provisions of title I shall not become effective until January 1, 1974.

Mr. BOLLING: Mr. Chairman, then this amendment should have been offered at a different place as an amendment to the Heinz amendment, or else it is in effect a redundancy.

Mr. ANDERSON of Illinois: Mr. Chairman, if I may be heard further on the point of order, as I understand the Heinz amendment it has the effect of making it merely a 1-year bill. In other words, the antiimpoundment provisions would expire at the end of the current fiscal year. My amendment says that title I, the antiimpoundment provision, does not commence, does not become effective as a matter of law until January 1, 1974.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Anderson) provides that title I shall take effect on January 1, 1974. The amendment is objected to because of inconsistency and also because it is not germane.

The Chair cannot rule on the consistency of the amendment offered by the gentleman from Illinois (Mr. Anderson) but the amendment certainly fixes a date certain which is not an unrelated contingency. The amendment is germane and therefore the Chair overrules the point of order.

§§8.8 While an amendment may not change an amendment already agreed to, an amendment that involves similar but not identical subjects to follow the adopted amendment is in order; and the Chair will not rule on the consistency of those amendments.

On Dec. 14, 1973,⁽⁷⁾ during consideration of H.R. 11450, the Energy Emergency Act, Chairman Richard Bolling, of Missouri, overruled points of order in part on the ground that the Chairman does not rule on the consistency of amendments.

Amendment offered by Mr. [William R.] Roy [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9)(A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by

7. 119 CONG. REC. 41725-30, 41740, 93d Cong. 1st Sess.

a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 25,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

“(B) For purposes of subparagraph (A)—

“(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

“(ii) the term ‘control’ means control by ownership.” . . .

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Kansas (Mr. Roy) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers). . . .

The vote was taken by electronic device, and there were—ayes 189, noes 194, not voting 49, as follows: . . .

Amendment offered by Mr. [Joe] Skubitz [of Kansas] to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).” . . .

THE CHAIRMAN: The question is on the amendment offered by the gen-

tleman from Kansas (Mr. Skubitz) to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The amendment to the amendment in the nature of a substitute was agreed to. . . .

MR. [ROBERT D.] PRICE of Texas: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers: Page 36, line 23, strike out the quotation marks.

Page 36, insert after line 23 the following:

“(9)(A) This subsection shall not apply to the first sale of crude oil or petroleum condensates produced from any lease within the United States by a seller (i) who produced such oil or condensate, (ii) who (together with all persons who control, are controlled by or who are under common control with, such seller), produces in the aggregate less than 5,000 barrels per day of crude oil and petroleum condensates, averaged annually, and (iii) who is not a refiner or marketer or distributor of refined petroleum products (or a person who controls, is controlled by, or is under common control with such a refiner, marketer, or distributor).

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. CONTE: Mr. Chairman, my point of order is that we have already considered the amendment before today. It was the Roy amendment, and therefore a point of order should lie against it.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I would like to be heard also on the point of order.

THE CHAIRMAN: The Chair will state that as the Chair understands the amendment the figure has been changed, therefore it is not the same amendment since the figure has been changed.

MR. DINGELL: May I be heard on the point of order?

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I would like to speak against the point of order.

THE CHAIRMAN: May the Chair suggest that the Clerk complete the reading of the amendment, and then I will recognize the gentleman on his point of order.

The Clerk read the remainder of the amendment, as follows:

(B) For purposes of subparagraph (A)—

(i) a person produces crude oil or petroleum condensates only if he has an interest in the production thereof which permits him to take his production (or share thereof) in kind, and

(ii) the term “control” means control by ownership.

THE CHAIRMAN: The gentleman from Massachusetts will be heard on his point of order.

MR. CONTE: Mr. Chairman, I insist on the point of order even though the amendment changes the figures. The amendment is now in the third degree, and therefore the point of order should be upheld.

MR. DINGELL: Mr. Chairman, I make a point of order on the grounds that this is again bringing before the Committee a portion of the bill which has already been amended. As the Chair

recalls, we adopted the Skubitz amendment, which dealt with the same subject matter, and at the same place, and I submit, regardless of the point of order raised by the gentleman from Massachusetts (Mr. Conte) that this is a violation of the Rules of the House as an attempt to redo action earlier taken by the Committee with regard to the Skubitz amendment, which was likewise dealing with the limitation on the coverage of the particular section to include coverage of people who operate stripper wells.

MR. ECKHARDT: Mr. Chairman, I speak against the point of order. The Skubitz amendment dealt in an entirely different subject matter. The Skubitz amendment dealt with oil produced by well, not oil produced by producer, and provided that in those cases of wells producing less than, as I recall, 10 barrels per day, these should be exempted.

The amendment here is not dealing with stripper wells. It has nothing to do with wells. It has to do with the size of the producers. Therefore, this subject matter has not been previously covered. This does not change the Skubitz amendment at all, and it deals with a different subject.

Of course, the point of order with respect to the proposition that this is in the third degree is frivolous, because this is introduced as an additional amendment, and the amendment is different materially from the 25,000 barrels.

MR. DINGELL: Mr. Chairman, I again note, with the assistance of the Chair, that the Skubitz amendment and the amendment now before us appear at precisely the same place in the bill.

MR. CHAIRMAN: For the reasons stated by the gentleman from Texas (Mr. Eckhardt) because the Chair does not rule on the inconsistency of amendments, and the fact that the number of barrels involved in this amendment is different from that in the former amendment, the Chair overrules the points of order, and the amendment will be voted on.

Propriety of Considering Amendment Identical to a Previously Passed Bill

§ 8.9 The Committee of the Whole and not the Chair decides whether it may consider an amendment consisting of the exact language agreed to in a bill previously passed by the House.

On May 13, 1946,⁽⁸⁾ during consideration of Senate Joint Resolution 159, to extend the Selective Training and Service Act, Chairman Alfred L. Bulwinkle, of North Carolina, stated that the Committee of the Whole, not the Chair, would decide whether an amendment to the resolution would be considered.

The Clerk read as follows:

Resolved, etc., That section 16(b) of the Selective Training and Service Act of 1940, as amended, is amended by striking out "May 15, 1946" and inserting "July 1, 1946."

8. 92 CONG. REC. 4957, 79th Cong. 2d Sess.

MR. [DEWEY] SHORT [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Short: Strike out all after the enacting clause of Senate Joint Resolution 159 and insert the following:

"That so much of the first sentence of section 3(a) of the Selective Training and Service Act of 1940, as amended, as precedes the first proviso is amended to read as follows:

"Sec. 3. (a) Except as otherwise provided in this act, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of 20 and 30, at the time fixed for his registration, or who attains the age of 20 after having been required to register pursuant to section 2 of this act, shall be liable for training and service in the land or naval forces of the United States. . . ."

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, I make a point of order against the amendment just offered by the gentleman from Missouri on the ground that the exact language in another bill has been acted on favorably by the House.

MR. CHAIRMAN: The Chair states to the gentleman from New York [Mr. Andrews] that that is a matter for the committee to pass on, not the Chairman. The Chair overrules the point of order.

Constitutionality of Proposed Amendment

§ 8.10 The Chairman does not rule on the constitutionality of proposed amendments.

On Aug. 19, 1965,⁽⁹⁾ during consideration of an amendment to H.R. 9811, the Food and Agriculture Act of 1965, Chairman Oren Harris, of Arkansas, overruled a point of order that an amendment was unconstitutional.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Whitten: Page 14 following the word "follows" in line 15 add the following: "For such period as the Secretary of Agriculture shall carry out the provisions of the Export Sales Act of 1956 (7 U.S.C. 1853) the following changes shall be made in the Agricultural Adjustment Act of 1938, as amended." . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, may I state my point of order?

MR. CHAIRMAN: The gentleman will state his point of order.

MR. COOLEY: Mr. Speaker, I make a point of order against the amendment not because of germaneness, but because it is an unconstitutional and unwarranted delegation of the power of Congress to some unknown person or to some unknown agency to make the determinations contemplated by the gentleman's amendment. We have no right to delegate this authority to any other person. . . .

MR. CHAIRMAN: Does the gentleman from Mississippi wish to be heard on the point of order?

MR. WHITTEN: Mr. Chairman, I wish to be heard on the point of order. Cer-

tainly I do not believe that there is any case where the Congress does not have a right to set the terms and conditions upon which any legislation may become affected. The law to which I referred is on the statute books and the reference made to it says that the provisions of this act shall be effective only as this other law is carried out.

Mr. Chairman, I think that certainly an objection might be in order, but I do not think there is any question insofar as the point of order is concerned. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Mississippi offers an amendment to this title which the Clerk has reported which proposes to amend title IV, section 401.

The Chair has had occasion to observe the provisions of the law included in title VII of the United States Code to which the amendment refers, imposing the duty on the Secretary of Agriculture in carrying out certain provisions of the program.

The gentleman from North Carolina raises a point of order on the question that the amendment is unconstitutional—on the grounds of unconstitutionality. Of course that is a matter on which the Chair does not pass. That is a matter for the Committee to determine and, therefore, the Chair overrules the point of order.

Authority to Allocate Debate Time on Amendments

§ 8.11 Where the Committee of the Whole fixes the time for closing debate on pending amendments, the Chair notes the names of the Members

9. 111 CONG. REC. 21016, 89th Cong. 1st Sess.

seeking recognition at the time the limitation is agreed to and divides the time equally between them.

On Aug. 18, 1949,⁽¹⁰⁾ during consideration of H.R. 5895, the Mutual Defense Assistance Act of 1949, Chairman Wilbur D. Mills, of Arkansas, noted the names of Members seeking recognition and allocated the time equally among them after the Committee of the Whole fixed the time for debate on pending amendments.

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I ask unanimous consent that all debate on the pending amendments and all amendments thereto close in 1 hour.

THE CHAIRMAN: Is there objection to the request of the gentleman from West Virginia?

There was no objection. . . .

MR. [EARL] WILSON of Indiana: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of Indiana: There were a certain number of us on our feet when the unanimous-consent request was propounded. After the time was limited, about twice as many people got on their feet to be recognized.

THE CHAIRMAN: The Chair is endeavoring to ascertain those Members who desire to speak, and has no disposition to violate any rights of freedom of speech.

MR. WILSON of Indiana: Further pressing my point of order, is it in order after the time is limited for others to get the time that we have reserved for ourselves? I would like to object under the present situation.

THE CHAIRMAN: Permit the Chair to answer the gentleman. If the gentleman from Indiana will ascertain and indicate to the Chair the names of the Members who were not standing at the time the unanimous-consent request was agreed to, the gentleman will render a great service to the Chair in determining how to answer the gentleman.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RICH: That is not the duty of the gentleman from Indiana. That is the duty of the Clerk.

THE CHAIRMAN: The gentleman from Pennsylvania and the Chair both understand that, but apparently all Members do not. The Chair is endeavoring to do the best he can to ascertain those who desire to speak under this limitation of time. Now permit the Chair to ascertain that.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HOFFMAN of Michigan: Will the Chair, with the assistance of the Clerk, advise me how many Members have asked for time, and how much time each Member will be allotted?

THE CHAIRMAN: Each of the Members whose names appear on the list

10. 95 CONG. REC. 11760, 81st Cong. 1st Sess.

will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour.

§ 9.—Appeals of Rulings

Debate on an appeal in the Committee of the Whole is under the five-minute rule⁽¹¹⁾ and may be closed by a motion to close debate or to rise and report.⁽¹²⁾ In recognizing Members for debate on an appeal in the Committee of the Whole, the Chairman alternates between those favoring and those opposing the ruling.⁽¹³⁾

Rule I clause 4,⁽¹⁴⁾ which relates to authority of the Speaker, provides that no Member shall speak

11. §9.6, *infra*; see also note to Rule I clause 4, *House Rules and Manual* §628 (1979); and 7 Cannon's Precedents §1608.

12. Rule I clause 4, *House Rules and Manual* §628 (1979); 5 Hinds' Precedents §§6947, 6950; and 8 Cannon's Precedents §3453.

In an exceptional case the Committee of the Whole rose and reported a question of order for decision of the House when an appeal was taken from a ruling of a Chairman; in that instance, the Chairman had ruled that an appeal could not be taken in the Committee. 4 Hinds' Precedents §4783.

13. 8 Cannon's Precedents §3455.

14. *House Rules and Manual* §624 (1979).

more than once on appeal, unless by permission of the House; and this provision is applicable to Members rising for that purpose in the Committee.⁽¹⁵⁾

Propriety of Appeal

§ 9.1 A decision of the Chairman of the Committee of the Whole can be appealed.

On July 19, 1956,⁽¹⁶⁾ after ruling that an amendment to H.R. 627, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States was not germane,⁽¹⁷⁾ Chairman Aime J. Forand, of Rhode Island, stated his opinion as to whether a decision of the Chairman of the Com-

15. See 2 Hinds' Precedents §1313; and 5 Hinds' Precedents §6938. Although this principle has not been explicitly extended to the Committee of the Whole, it applies because of Rule XXIII clause 9, *House Rules and Manual* §877 (1979), which provides that the rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable. See Jefferson's Manual, *House Rules and Manual* §340 (1979); 4 Hinds' Precedents §4737; and 8 Cannon's Precedents §2605.

16. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

17. See §9.2, *infra*, for that ruling and an appeal.